

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>Ward Ennis Armstrong,</b>	)	
	)	
Petitioner,	)	
	)	
v.	)	2:08cv854
	)	Electronic Filing
	)	Judge David S. Cercone
<b>Randall Britton, et al.,</b>	)	Magistrate Judge Lenihan
	)	
Defendants.	)	

**MEMORANDUM ORDER**

AND NOW, this 12<sup>th</sup> day of May, 2009, after de novo review of the record and upon due consideration of [9] the magistrate judge's report and recommendation filed on October 23, 2009, and [12] petitioner's amended objections thereto, IT IS ORDERED that petitioner's objections are overruled, the Petition for Writ of Habeas Corpus is dismissed and the concomitant request for a certificate of appealability is denied. The report and recommendation as augmented below is adopted as the opinion of the court.

Petitioner's objections are without merit. None of the grounds raised provide a legal basis for concluding that petitioner's conviction did not become final or became final on a date later than August 11, 2004. Similarly, petitioner has not identified and the record does not provide any basis for tolling the bar date beyond the calculations set forth in the report. Consequently, the petition for writ of habeas corpus clearly is time barred and the above order is appropriate.

s/ David Stewart Cercone  
David Stewart Cercone  
United States District Judge

cc: Magistrate Judge Lenihan

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